

COUNTY OF KAUAI

Minutes of Meeting
OPEN SESSION

Board/Committee:		BOARD OF ETHICS		Meeting Date		January 20, 2017		
Location		Mo‘ikeha Building, Liquor Conference Room 3			Start of Meeting: 1:00 p.m.		End of Meeting: 1:36 p.m.	
Present		Chair Mary Tudela; Vice Chair Michael Curtis; Secretary Maureen Tabura. Members: Ryan de la Pena; Calvin Murashige; Brad Nagano; Mia Shiraishi Staff: Deputy County Attorney Nicholas Courson; Department of Liquor Control Secretary Cherisse Zaima; Administrator Jay Furfaro						
Excused								
Absent								
SUBJECT		DISCUSSION				ACTION		
Call To Order						Chair Tudela called the meeting to order at 1:00 p.m. with 7 members present.		
Approval of Minutes		<u>Regular Open Session Minutes of December 16, 2016</u>				Mr. de la Pena moved to approve the minutes as circulated. Mr. Murashige seconded the motion. Motion carried with 6:1 (abstain – Nagano)		
Communication		<u>BOE 2017-01 Memo dated 12/16/16 from Councilmember Arthur Brun to the County Council regarding a possible conflict of interest relating to Bill No. 2643 repealing Article 23 of Chapter 22 relating to Pesticides and Genetically Modified Organisms</u>				Ms. Tabura moved to receive the communication. Mr. Murashige seconded the motion. Motion carried 7:0		
Request for Advisory Opinion		<u>RAO 17-001 Request received 12/12/16 from Arthur Brun, Councilmember, as to whether there is a conflict of interest for him to participate in County Council proceedings and voting on Bill No. 2634 repealing Article 23 of Chapter 22 relating to pesticides and genetically modified organisms since he is also employed by Syngenta</u> Mr. Arthur Brun was present to answer any questions presented by the Board. Mr. Brun stated there were no additions to the documents submitted to the Board. Chair Tudela clarified that Mr. Brun’s request was to address the impacts of						

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	<p>his involvement in the second and final reading of the bill.</p> <p>Deputy County Attorney explained that for procedural purposes it would be preferable for a motion to be made for either conflict or no conflict, and make it clear that it is for discussion purposes; members can always vote against motions they make.</p> <p>Mr. Curtis asked Mr. Brun if he felt he had a conflict of interest to which Mr. Brun responded that he works with Syngenta as a third-party coordinator. Mr. Curtis then asked whether Syngenta would be directly affected by this action. Mr. Brun explained that the voting on the bill is more of a housekeeping measure to remove a bill that the courts have already deemed invalid; it is a procedural measure to get it off of the books. He added that while Syngenta is named in the lawsuit, it includes all of the biotech companies that sued the County.</p> <p>Mr. Murashige questioned that if it were not to invalidate a law, but rather to pass a law, would there still be no conflict to which Mr. Brun replied that in that situation he would come before the Board to determine whether there was such a conflict.</p> <p>Mr. Curtis commented that on its face it would appear to be a conflict because Syngenta would be adversely affected if this law were in effect. Though it has been ruled invalid, if it were in place, it would be conflict and Mr. Brun would have to recuse himself. Mr. Curtis further stated that though his motion was for no conflict, he will be voting against his motion and suggest Mr. Brun recuse himself from any appearance of impropriety.</p> <p>Mr. Murashige stated that though he realizes it is a housekeeping matter, he would find a conflict if it were to vote on a law that would benefit Syngenta,</p>	

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	<p>and because of Mr. Brun's status with Syngenta. Mr. Murashige feels his position is in keeping with other decisions the Board has made regarding companies such as Grove Farm.</p> <p>Mr. Nagano stated he does not see a conflict as this vote on this bill is just to remove an invalid law.</p> <p>Ms. Shiraishi stated she agrees with Mr. Murashige that there is a conflict because Syngenta is a named party in the lawsuit.</p> <p>Chair Tudela stated that Syngenta being Mr. Brun's employer does cause pause that he would be involved in a decision, and asked Mr. Brun if he could explain why he feels compelled to be involved in the second and final reading of the bill, or whether he is just seeking clarification for the future. Mr. Brun replied that it is for future clarification, noting that since the first reading of the bill he has been recusing himself pending a determination of conflict by the Board. Should future items regarding Syngenta come before the Council, Mr. Brun would like to ensure he is doing the right thing.</p> <p>Ms. Tabura agreed with Mr. Murashige, and Ms. Shiraishi that because Syngenta is Mr. Brun's employer, there is inference of reward to the company.</p>	<p>Mr. Curtis moved that there is no conflict of interest. Mr. de la Pena seconded the motion. Motion failed 1:6 (Nay - Tudela, Curtis, Tabura, de la Pena, Murashige, Shiraishi)</p> <p>Mr. Curtis moved that a conflict of interest exists in Mr. Brun acting on a bill that directly names Syngenta. Mr. Murashige seconded the motion. Motion carried 6:1 (Nay-Nagano)</p>
	<p><u>RAO 17-002 Request received from Kanani Fu, Director of Housing, whether there is a conflict of interest under the Code of Ethics in holding</u></p>	

SUBJECT	DISCUSSION	ACTION
	<p><u>the position as the Housing Director for KCHA and the granting of her request to waive the CFR 982.161 item 3, which “prohibits the tenancy of the unit if the owner is any public official, member of a governing body, or State or local legislators, who exercise functions or responsibilities with respect to the program.”</u></p> <p>Ms. Kanani Fu was present to answer any questions presented by the Board. Ms. Fu stated there were no additions to the documents submitted to the Board.</p> <p>Chair Tudela asked whether Ms. Fu supervises Mr. Moritsugu, and whether Ms. Fu’s supervisor is aware of her request. Ms. Fu replied yes to both questions.</p>	<p>Mr. de la Pena moved that there is no conflict of interest. Mr. Murashige seconded the motion. Motion carried 7:0.</p>
Disclosures	<ol style="list-style-type: none"> 1. <u>Thomas J. Canute (Board of Water Supply)</u> 2. <u>Kilipaki K.F. Vaughan (Deputy Fire Chief)</u> 3. <u>Jade K. Fountain-Tanigawa (County Clerk)</u> 4. <u>JoAnn A. Yukimura (County Council)</u> 5. <u>Paul N. Endo (Liquor Control Commission)</u> 6. <u>Laurie K. Ho (Board of Water)</u> 7. <u>Roy M. Morita (Police Commission)</u> 8. <u>Mia Shiraishi (Board of Ethics)</u> 9. <u>Sean M. Mahoney (Planning Commission)</u> 	<p>Ms. Tabura moved to accept Disclosures 1, 3, 4, 5, 6, 7 & 9 and deem them complete with Disclosures 2 & 8 being incomplete for blank areas. Mr. Murashige seconded the motion. Motion carried 7:0.</p>
Executive Session	<p><u>ES-001 Executive Session Minutes of December 16, 2016</u></p> <p>Deputy County Attorney Courson explained that unless there were any changes or corrections to the minutes, the Board need not enter into Executive Session and can approve the minutes in Open Session.</p>	

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	The Board did not have any changes or corrections to the minutes.	Mr. Murashige moved to approve the Executive Session minutes of December 16, 2016. Mr. Murashige seconded the motion. Motion carried 5:2 (Abstain - Nagano, Shiraishi)
Announcements	<p>Chair Tudela stated that County Attorney Mauna Kea Trask requested an opinion from the Board, which is also being asked of the Ethics Boards of all other counties, which has a deadline of January 31, 2017.</p> <p>Deputy County Attorney Courson explained that all of the counties and the State are engaged in the collective bargaining process with the Hawaii Fire Fighters Association. HFFA has requested that their emblem be placed onto firefighter uniforms. The question posed is whether that is ethically allowable. The State Attorney has issued an opinion which Attorney Trask will provide to the Board; outside council has asked that each individual county responds to that question before the end of January.</p> <p>Chair Tudela asked the Board whether they were available on Friday, January 27, 2017 at 1:00 for a special meeting to address this specific request.</p> <p>Mr. Curtis commented that he is unsure that a special meeting is warranted to which Deputy County Attorney Courson explained that sunshine law prohibits discussion of this item at the current meeting because this item does not appear on this agenda. Because the request has a deadline of January 31, 2017, which is before the Board's next regularly scheduled meeting, the Chair is scheduling a special meeting to discuss this specific item only. Deputy Attorney Courson explained that an agenda for the special meeting on January 27 will be posted today, which complies with the Sunshine Law's 6-day prior notice requirement.</p>	

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	<p>Mr. Curtis asked to clarify that the Board will have to scramble to approve this item to which Deputy Attorney Courson explained it would not be an approval, but rather an opinion Mr. Curtis then asked whether the Board could choose not to hear this item to which Deputy Attorney Courson replied yes. Chair Tudela stated that the County Attorney has asked the Board, as a courtesy, to review something that is important to both the State and the County, and she will be moving forward with holding the meeting on January 27.</p> <p>Next Meeting: Friday, February 17, 2017 – 1:00 p.m., Mo'ikeha Building, Liquor Conference Room</p>	
Adjournment		Mr. Curtis moved to adjourn the meeting. Mr. Murashige seconded the motion. Motion carried 7:0.

Submitted by: _____
Cherisse Zaima, Private Secretary

Reviewed and Approved by: _____
Mary Tudela, Chair

() Approved as circulated.

(x) Approved with amendments. See minutes of __02/17/17__ meeting.